

PLANNING COMMISSION MINUTES OF NOVEMBER 14, 2005

2005-0804 – Southbay Christian Church [Applicant] Classic Communities [Owner]: Application for a Use Permit on a 1.4-acre site to allow a place of assembly (religious use) in an existing industrial building. The property is located at **539 East Weddell Drive** (near Morse Ave) in an M-S (Industrial & Service) Zoning District. (Negative Declaration) (APN: 110-14-158) JM **(Continued from October 24, 2004)**

2005-0803 – Southbay Christian Church [Applicant] Classic Communities [Owner]: Application for a Use Permit on a 2.3-acre site to allow a place of assembly (religious use) in an existing industrial building. The property is located at **521 East Weddell Drive** (near Morse Ave) in an M-S (Industrial & Service) Zoning District. (Negative Declaration) (APN: 110-14-196) JM **(Continued from October 24, 2004)**

Chair Hungerford said that projects 2005-0804 and 2005-0803 will be considered together, but voted on with separate motions.

Jamie McLeod, Associate Planner, presented the staff reports. She said both projects are for places of assembly in an industrial zoned area. Ms. McLeod provided maps of the sites to the Commission as they were omitted from the staff report. The two sites have one site in between them that is a similar use. Both of these applications were received prior to the City Council moratorium approved on September 20, 2005 that affects places of assembly and amusement and recreational uses in industrial zoning districts. There are two phases of the project. The smaller site at 539 East Weddell Drive is to be used as a religious place of assembly while the larger site is being developed. When the larger site at 521 East Weddell Drive is completed, the primary use activities will shift to the larger site. The primary issues on both sites are places of assembly in an industrial zoned district and parking. Staff was able to make the findings and believes that it would be appropriate to locate a religious place of assembly on these two sites with a Condition of Approval (COA) that is a three-year approval. Staff is recommending approval of both sites with conditions. If the conditions are removed or modified it may impact the staff recommendation. Ms. McLeod provided to the Commission a copy of a letter received from the neighbor that is in between the two sites expressing concern regarding the potential traffic impact on traffic.

Vice Chair Fussell asked in developing the shared use and restricted use, how much consideration was taken for the property in the middle. Ms. McLeod said the Traffic Division reviewed this project and did not recommend a traffic study be done. The recommended conditions require there be no major assembly uses at the same time on the two sites and staff tried to limit the impact for the neighborhood through the hours of operation. Ms. Ryan said that the existing

site meets its parking requirement and is independent of these two. Ms. McLeod said the two proposed sites would have shared parking.

Comm. Simons asked further about parking and staff confirmed that the Hetch Hetchy parking is not a part of this application.

Comm. Babcock asked if there was a use permit for a specific number of attendees for the existing neighboring church, the Korean Catholic Church. Ms. Ryan said that she does not recall, but there was some assurance that the amount of parking provided would be adequate. Comm. Babcock asked if the Korean church has adequate parking for their existing attendees. Ms. Ryan said that the site provides the number of required parking spaces, but that there has not been verification that the parking is adequate.

Chair Hungerford opened the Public Hearing.

Scott Ward, property owner with Classic Communities, urged the Commission to approve the project with the conditional Use Permit. He said they realize that there are concerns about this type of use. He noted that these sites are located at the edge of a light industrial area. He said they are very close in proximity to the emerging Fair Oaks Industrial to Residential (ITR) district which is transitioning into residential. He added that the Southbay Christian Center has the potential to serve a number of needs in the community and models for appropriate places of assembly in light industrial zones. He said Southbay has worked hard to make this project work and has worked cooperatively with staff and in consideration of the requirements. He said Southbay had a preliminary traffic impact study done and determined on a preliminary basis that there would be no negative traffic impacts associated with the proposed use. He concluded that all parking will be on Southbay facilities.

John Christenson, Senior Pastor of Southbay Christian Church, provided a brief history of the church dating back from the 1920s. He said that this site is ideally suited for their church as 95% of the congregation is Sunnyvale residents, the facilities provide ample space and all of the parking is self-contained on both properties. He said that though this site is zoned industrial that they are located close to residential and he thinks they will be a benefit to the nearby residents. He thanked staff for their hard work and for their counsel and direction. He said they have tried to follow the recommendations as closely as possible and are grateful that staff is recommending approval. He said they are buying both of these buildings with the intention of using them in the conformity with the terms and limitations presented by staff. He did request a few changes. He said he would like to see the three-year restriction extended to a longer period, would like the hours of operation changed from 8 a.m. to 10 p.m. for project 2005-0804 (Attachment B, COA 1. J.) so the hours are the same as project 2005-0803, and asked for the removal of COA 1.N. He thanked the Commission for their consideration.

Comm. Babcock said that the reports under the Architecture sections state that "Minor modifications to the façade may be addressed during the Building Permit stage." She asked how the applicant would feel about a COA added to the 521 East Weddell Avenue project that requires the architectural modifications reflect its usage. Mr. Christenson said that they agreed the building needs modifications, showed the proposed façade changes to the 521 East Weddell building and are willing to work with staff.

Comm. Sulser commented about the applicant's concern about the three-year restriction on the Use Permit and asked the applicant what specific extension he is asking for. Mr. Christenson said he would like to ask for an indefinite restriction, but would like to see it at least twice the current restriction. He also added they would take whatever the Commission was willing to offer.

Jae Sup Lee, affiliated with the Korean Catholic Church, spoke in opposition of the project saying that they have nothing against the applicants, but are concerned about parking, traffic and the possible dangers of accidents. He asked that the Commission put a hold on this project until the traffic problems can be resolved.

Peter Pack, affiliated with the Korean Catholic Church, spoke in opposition of the project due to potential traffic problems and potential danger to pedestrians.

Comm. Babcock asked how many parking spaces the Korean Catholic Church has. Mr. Lee said they lease from the City of San Francisco, the Hetch Hetchy site, 1.17 acres with 133 parking spaces and also have an existing 70 parking spaces on their site. He said their area is already overloaded especially at the 11 o'clock a.m. mass when there are about 300 cars. He added that they have two masses with only 30 minutes between masses which can result in a lot of traffic. Comm. Babcock asked if they had an agreement with someone for the parking of the excess 100 cars. He said some places they are permitted, but some of the attendees park wherever they can. He said they have requested from the Diocese of San Jose an opportunity to relocate, but the Diocese has other priorities right now so the church has no timeframe to relocate.

Comm. Simons said that the parking issues with the Korean Catholic Church are separate from this application and COA 1.K. restricts the usage of both proposed sites at the same time, which the City could enforce. He said the parking situations for these projects are being dealt with for the proposed sites. Mr. Lee said that he thinks if these projects are approved that there is the potential for turmoil due to the parking and traffic.

Richard Hong, affiliated with the Korean Catholic Church, welcomed Southbay Christian Church as a potential neighbor to the community, but spoke in opposition of the project. He said he is concerned about having Southbay moving into the two separate buildings surrounding the Korean Catholic Church.

He said he is concerned about increasing traffic in the area and having two parking lots with no sidewalks and wondered how Southbay attendees will get from one site to the other.

Kwang Kim, Chairperson of the Building Committee of the Korean Catholic Church, spoke in opposition to the project. He said it is painful to object to fellow Christians moving into the neighborhood. He said they met with Mr. Ward and Mr. Christenson several times to see if they could work out some of the differences, but due to the concerns about potential traffic accidents as a result of the increased traffic, that they were unable to come up with a compromise.

Comm. Simons asked Mr. Kim if the Korean Catholic Church rents or owns. Mr. Kim said that they own. Comm. Simons asked if the parish would accept building a sidewalk in front of the church. Mr. Kim said he thinks that the road is too narrow to put in a sidewalk.

Dennis Lee, affiliated with the Korean Catholic Church, spoke in opposition of the project due to his concerns of increased traffic and the safety of the children at both churches.

Ricardo Kiryczun, affiliated with Southbay Christian Church, spoke in support of the project. He said he has been out to this area many times and that there is room to put in a sidewalk. He said in the times he has been there he did not see a traffic problem.

Daisy Morales, affiliated with Southbay Christian Church, spoke in support of the project. She said she is excited that the Church may move back to Sunnyvale and feels that with the City overseeing the project that both congregations can co-exist in this area.

Harriet Rowe, a resident of Sunnyvale, spoke in support of this project. She said she is usually opposed to places of assembly uses in the industrial areas, but this is probably the first place she has seen that she really feels is transitional and thinks it is a good use of the land. She mentioned several concerns including making sure their food preparation does not become a catering business, that the uses will be monitored, that she is glad to see the building upgraded, and that she would like to discourage the use of compact parking spaces to count toward the parking. She said she would like to know if there were going to be any upgrades to the landscaping.

Michael Giusti, affiliated with the Southbay Christian Church, spoke in support of the project. He said Southbay fully intends to follow all of the conditions required. He reiterated that the traffic report that was put together and submitted showed that no traffic problems would exist if the projects are approved and that Southbay's parking is completely independent from the Korean Catholic Church.

Mike Pak, affiliated with the Korean Catholic Mission, spoke in opposition to the project and said that he is concerned about the safety of the children in relation to traffic.

Cindy Trode, affiliated with Southbay Christian Church, spoke in support of the project. She said she feels it is the responsibility of the parents to watch over their children in parking lots and near the streets and if parents are careful the traffic will not be a safety issue.

Mr. Ward addressed the traffic issue saying that the City's Traffic Division assessed the potential traffic impacts related to the projects and determined with the potential volumes that there were no impacts. He said the preliminary traffic document produced by their traffic consultant indicated that it is estimated that there would be no significant impact to the area due to lower weekend background traffic volumes. He also pointed out that there are multiple approaches to these sites. He said they are required to install sidewalks as part of the application. He said that the parking problems in the area are not related to the Southbay Christian Church.

Mr. Christenson responded to Mr. Kim's comment about being contacted to see if an arrangement could be reached to alleviate the traffic and parking situation. He said Mr. Kim's solution was to sell the Korean Catholic Church's building to them, but the selling price was too high. He also said that the Korean Catholic Church already has a sidewalk in front of their building. He said the Southbay Christian Church presently has 65 cars on Sunday mornings and he does not feel this amount of cars will cause a traffic problem.

Chair Hungerford closed the Public Hearing.

Comm. Simons asked staff if the Use Permit would go with the land or with the applicant only. Ms. Ryan said normally the Use Permit goes with the use and not the user. She said she would recommend that the Use Permit be changed to a place of assembly for religious use rather than specifically for Southbay Christian Church.

Chair Hungerford clarified that each project would be voted on with a separate motion.

Comm. Klein asked staff to comment on why the staff decided that the implications of traffic for these projects did not require a traffic study. Ms. Ryan said a full traffic analysis was not required as the roadway capacity seemed adequate when examined. Ms. McLeod added that staff was concerned about the southern entrance and exit at the 539 East Weddell site and considered closing it, but due to a concern about emergency access and solid waste access, that closure recommendation was removed. Comm. Klein said on his site visit he saw some of the issues that have been brought up. He asked what staff's recommendation might be if the Commission was concerned about some of

these issues. Ms. Ryan said if the Commission is concerned about the traffic in the area that the item could be continued for further information before action is taken. If the Commission wants to know in the future what the traffic impact is, the information could be requested through City staff in the future. Ms. Ryan said she would not recommend requiring a traffic study after a project has been approved.

Comm. Babcock made a motion on 2005-0804 located at 539 East Weddell Drive to adopt the Negative Declaration and approve the Use Permit with modified conditions; to modify COA 1.J. to change the hours of operation to 8 a.m. to 10 p.m.; to eliminate COA 1.N.; to change COA 1.E. from 3 years to 5 years and the 4 years to 6 years. Comm. Sulser seconded.

Comm. Babcock said she knows there are some difficult issues involved with this application, but she said there are also bonuses. She said having childcare available near a residential neighborhood is a bonus, and that she likes the fact that churches are available to neighborhood groups. She said that regarding safety, that everyone will have to drive carefully. She said that with these projects Traffic Management Programs are being required and that possibly the Korean Catholic Church may want to also explore ways to reduce the number cars that come to their property.

Ms. Ryan clarified that neither of the permits include a childcare facility as they are not permitted in this zoning district. Ms. Ryan said Comm. Babcock may have been thinking about church-related religious instruction which is distinct from childcare. Ms. Ryan also pointed out that the Commission can give guidance to the applicant about what other uses could be included in COA 1.N. possibly stating that the site could not be leased for other uses, but could be leased for similar uses. Comm. Babcock and staff discussed different wording for COA 1.N. with Ms. Ryan suggesting that the COA be modified to read, "Entire site shall be used for a place of assembly, religious use, as defined in the report." Comm. Babcock asked for clarification if "places of assembly" could include non-religious uses also.

Joan Borger, Senior Assistant City Attorney, suggested that the Commission, not eliminate COA 1.N. **Comm. Babcock agreed to change COA 1.N. to read, "Entire site shall be used for a place of assembly as defined in the report," and asked for the motion to reflect this change.**

Ms. McLeod said that a landscaping irrigation system was mentioned during the comments earlier by the applicant. The applicant did submit a landscaping plan for both sites and the Condition was not added. **Staff recommends that a COA be added, that includes the wording "upgrading of landscape and irrigation system per proposed plans."**

Comm. Simons asked the maker of the motion for clarification to the modification of COA 1.E. regarding changing the number of restriction years.

The Commissioners and staff discussed the Condition and Comm. Simons recommended that the COA 1.E. remain as it is written in the report to be consistent with other applications. Ms. Ryan added that after the Places of Assembly study is completed, if any new criteria is set, that any existing places of assembly that have a time restriction can come back to the City prior to the three years to take the time restriction off. **Comm. Babcock agreed to keep COA 1.E. as written in the report. Comm. Simons asked that COA 5.B. be modified to include "large species native trees as appropriate for the site."**

Comm. Babcock said the motion includes staff's recommendation of upgraded landscaping and irrigation per proposed plans. The seconder agreed with the all the changes.

Ms. Ryan clarified that COA 1.N. shall be reworded to read, "Entire site shall be used for a place of assembly as defined in the report."

Comm. Klein said he will support the motion. He said he met with the developers on this project and has visited the site. He said this is an area that is changing from industrial to residential and churches have a function in this community. He said he does have concerns about the traffic and how it will develop. He was glad to see the three-year restriction included and thinks this will be a good project.

Comm. Simons said he supports the motion. He understands the Korean Catholic Church's concern about safety. He feels the sidewalks added to the properties may improve the safety of pedestrians for both the Korean Catholic Church as well as the proposed church. He said he agrees that the Korean Catholic Church may want to talk and work with the City about finding ways to minimize the amount of auto parking.

Ms. McLeod mentioned that with the modifications to COA 1.N. that there may be additional parking issues. Comm. Babcock said that all other restrictions would apply and that the parking would overrule.

Final Action:

Comm. Babcock made a motion on 2005-0804 to adopt the Negative Declaration and approve the Use Permit with modified conditions; to modify Condition of Approval (COA) 1.J. to change the hours of operation to 8 a.m. to 10 p.m.; to modify COA 1.N. to read, "Entire site shall be used for a place of assembly as defined in the report."; to add to the COAs the language "upgrading of landscape and irrigation system per proposed plans,"; to modify COA 5.B. to include the wording, "large species native trees as appropriate for the site." Comm. Sulser seconded.

Motion carried, 6-0, Comm. Moylan recused himself.

This item is appealable to City Council no later than November 29, 2005.

Comm. Babcock made a motion to adopt the Negative Declaration and approve the Use Permit with modified condition for 521 East Weddell that the minor architectural modifications be required to reflect its usage as a place of assembly. **Comm. Simons** seconded. He asked for a Friendly Amendment that Condition of Approval 5.B. include the language “large species native trees as appropriate for the site.” This was acceptable to the maker of the motion.

Comm. Babcock said this motion follows the other project, 2005-0804. She said that she agrees with the applicant that this building could use improvement. She feels that buildings should reflect their usage.

Ms. McLeod asked that the wording “upgrading of landscape and irrigation system per proposed plans,” be added to the COAs. This was acceptable to maker and the seconder of the motion.

Final Action:

Comm. Babcock made a motion on 2005-0803 to adopt the Negative Declaration and approve the Use Permit with modified conditions; minor architectural modifications be required to reflect its usage as a place of assembly; that Condition of Approval (COA) 5.B include the language “large species native trees as appropriate for the site”; a COA be added that reads “upgrading of landscape and irrigation system per proposed plans.” **Comm. Simons** seconded.

Motion carried 6-0, Comm. Moylan recused himself.

This item is appealable to City Council no later than November 29, 2005.